

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

TERRY VESTAL, Individually and
on behalf of Mary Altgelt, Deceased,

Plaintiff,

v.

JAIME M. VASQUESZ, M.D.; and
THE CENTER FOR REPRODUCTIVE
HEALTH, P.C.,

Defendants.

Civil Action No. 3:03-0051

JURY DEMAND

Judge Nixon
Magistrate Knowles

AFFIDAVIT OF JOEL S. ENGEL, M.D.

STATE OF GEORGIA)
COUNTY OF FULTON)

After first being duly sworn, the Affiant Joel S. Engel, M.D. states as follows:

1. My name is Joel S. Engel, M.D. I am an individual of the full age of majority and am competent and qualified in all respects to provide the following medical opinions based upon my knowledge and experience.

2. I am a physician duly licensed to practice medicine in the State of Georgia. At the time of the treatment in question regarding Mary Altgelt, I was licensed and practicing medicine in the State of Georgia. I am board certified by the American Board of Obstetrics & Gynecology. I am a member of the America Society for Reproductive Medicine. My clinical practice focuses on infertility and reproductive medicine. A copy of my *curriculum vitae* is attached hereto as Exhibit 1.

3. In forming my opinions in this case, I have reviewed the following information regarding Mary Altgelt:

- Amended Complaint;

- Amended Answer;
- Ultrasounds and medical records of Jaime Vasquez, M.D.;
- Medical records from Duke Choi, M.D.;
- Medical records from UCSF Medical Center; and
- Medical records from Hospice & Palliative Care of Contra Costa.

4. I am familiar with the recognized standard of professional practice for obstetricians and gynecologists treating patients such as Mary Altgelt in Nashville, Tennessee or similar communities during the period 2001 - 2002. In addition, I am familiar with communities such as Nashville, Davidson County, Tennessee and similar communities in Georgia, including Atlanta, Georgia. I am familiar with the population of Nashville and Atlanta, the number and types of hospitals and medical schools in each community (Atlanta and Nashville), as well as the number of OB-GYN specialists in Atlanta and Nashville. I consider the standard of professional practice to be applicable to a patient such as Mary Altgelt in Nashville, Tennessee to be similar to the standard of professional practice that would have been applied to treatment of such a patient in Atlanta, Georgia. Based upon my knowledge and experience, I am familiar with the recognized standard of acceptable professional practice in Nashville, Davidson County, Tennessee and similar communities ("the recognized standard of professional practice" or "standard of care").

5. In this case Mary Altgelt at age 48 began fertility treatments under the care of Dr. Jaime Vasquez. During the course of her treatment, ultrasounds were performed in the office of Dr. Vasquez. The ultrasounds were used to check on the progress of the fertility treatments, as well as to evaluate the uterus, fallopian tubes and ovaries during treatment. Specifically, ultrasounds were performed on December 13, 2001; December 27, 2001; January 23, 2002; January 28, 2002; February 7, 2002 and

March 6, 2002.

6. Ultrasound examinations can identify and assess cysts and fibroid growths as well as ovarian or uterine masses and cancers. In this case, the ultrasound examinations showed a mass of increasing size that was highly suspicious of cancer. The standard of care required that Dr. Vasquez:

- A. Consider a diagnosis of ovarian cancer;
- B. Refer Mary Altgelt to a gynecological oncologist for further testing and treatment; and
- C. Discontinue the hormone therapy pending evaluation and referral of ultrasounds.

In my opinion, based upon my medical knowledge and experience, had Dr. Vasquez and his medical staff complied with the recognized standard of care, more likely than not, Ms. Altgelt's cancer would have been timely discovered and treated and she would not have died.

7. Further, in Mary Altgelt's case there was a real opportunity for early detection of ovarian cancer based upon the routine clinical ultrasounds that were performed during the course of treatment by Dr. Jaime Vasquez. However, she was not diagnosed until June 2002 when she was evaluated in Dallas, Texas after experiencing symptomatic pain. At that time an MRI documented extensive cancer with an ovarian tumor. It is my opinion that with timely treatment rendered by the Dr. Vasquez and his medical staff within the standard of care, Ms. Altgelt would have received the necessary treatment, including surgery, chemotherapy and/or radiation therapy, that would have resulted in effective treatment and cure of the cancer with survival. As a result of

Dr. Vasquez's departure from the standard of care, Mary Altgelt died an untimely and wrongful death.

8. The opinions expressed herein are to a reasonable degree of medical certainty.

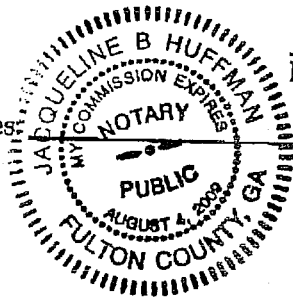
9. Further Affiant saith not.



JOEL S. ENGEL, M.D.

SWORN and subscribed to before me on this 23 day of May, 2006.

My Commission Expires





NOTARY PUBLIC

Joel S. Engel, M.D., P.C.
Gynecology - Infertility
755 Mt. Vernon Highway Suite 330
Atlanta, Georgia 30328

DOB: 18 January 37

EDUCATION: The College Of William & Mary
Indiana University A.B. Chemistry 1960
University Of Texas Medical Branch- Galveston MD 1966

INTERNSHIP: Medical College of Virginia 1966-67 *

RESIDENCY: Emory University School Of Medicine, Department of Gynecology &
Obstetrics 1969-72 Dr. John D. Thompson, Chairman
University Of Colorado Preceptorship Ultrasonography 1972

MILITARY: United States Air Force - Eglin AFB Department OB-GYN 1967-69

BOARDS: American Board Of Obstetrics & Gynecology -Certified 1974

HONORS: Indiana University Founder's Day Scholar 1957-60

SOCIETIES: Fellow American College Of Obstetricians & Gynecologists 1974
Georgia State & Atlanta Ob-Gyn Societies
Emory-Grady Society
Medical Associations of Atlanta & Georgia
Northside Hospital Laparoscopy Society
American Association of Gynecologic Laparoscopists
Maimonides Medical Society
American Society For Reproductive Medicine

WORK: University Of Texas Medical Branch- Department of Radiology
& Radiation Therapy - Research Assistant 1960-62
Veteran's Administration Hospital, Huntington, W.VA
Medical Officer- In house 1JUL66 - 1Sep66
Private practice Gynecology- Obstetrics Atlanta, Georgia 1972- present

TEACHING: Emory University Department Gynecology-Obstetrics- Clinical visiting
associate
Planned Parenthood Of Georgia- Clinical instructor

HOSPITAL: Northside Hospital Active Ob-Gyn 1972
St. Joseph's Hospital Atlanta - courtesy staff

EXHIBIT

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- MEDICAL REVIEW:** State of Tennessee Bureau of TennCare- Medical service appeals board
The American Foundation For Health Care-Mobile AL
Georgia Medical Care Foundation- Medicare/Medicaid Ob-Gyn review
- COMMUNITY:** Planned Parenthood Of Georgia- Chairman of the medical board
The High Museum Of Art- Atlanta Suburban Art Committee- founding member
- PUBLICATIONS:** The Use of Long and Short Reversed Bowel Segments for Surgical Malabsorption
University Of Texas Galveston Medical Journal 1966
Grady Memorial Hospital Experience Vaginal-Pelvic Hematomas Post-Partum- Emory University Medical Journal 1971
Urinary Excretion of Lactic Dehydrogenase in Hypertensive Pregnancies- Emory University Medical Journal 1972
- PRIZES:** Emory University School Of Medicine Resident's Research Day First Place 1972